

AMENDED IN SENATE JUNE 3, 1996
AMENDED IN SENATE MARCH 14, 1996
AMENDED IN ASSEMBLY JANUARY 29, 1996
AMENDED IN ASSEMBLY JANUARY 8, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1562

Introduced by Assembly Member Alby
(Principal coauthor: Assembly Member Boland)
(Coauthors: Assembly Members Ackerman, Aguiar, Baldwin,
Battin, Baugh, Bordonaro, Bowen, Bowler, Conroy,
Cunneen, Escutia, Frusetta, Granlund, Harvey, Hawkins,
Hoge, House, Knox, Kuehl, Kuykendall, Machado,
Margett, McDonald, Miller, Morrissey, Morrow,
Napolitano, Olberg, Rainey, Richter, ~~and Weggeland~~
Rogan, Speier, Weggeland, and Woods)
(Coauthor: Senator Ayala)
(Coauthors: Senators Ayala, Costa, Haynes, Johnston, and
Leonard)

February 24, 1995

An act to amend Section 290 of the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1562, as amended, Alby. Sex offenders: disclosure by law enforcement officers.

(1) Existing law imposes registration requirements on specified sex offenders.

This bill would ~~authorize~~ require law enforcement officers to disclose information regarding these offenders that is necessary to protect the public, which information may include the identities and locations of these offenders ~~in order to preserve public safety or to serve another legitimate law enforcement purpose~~. By increasing the duties of local law enforcement officials, this bill would impose a state-mandated local program.

(2) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290 of the Penal Code is
2 amended to read:
3 290. (a) (1) Every person described in paragraph
4 (2), for the rest of his or her life while residing in
5 California, shall be required to register with the chief of
6 police of the city in which he or she is domiciled, or the
7 sheriff of the county if he or she is domiciled in an
8 unincorporated area, and, additionally, with the chief of
9 police of a campus of the University of California or the
10 California State University if he or she is domiciled upon
11 the campus or in any of its facilities, within 14 days of

1 coming into any city, county, or city and county in which
2 he or she temporarily resides or is domiciled for that
3 length of time. The person shall be required annually
4 thereafter, within 10 days of his or her birthday, to update
5 his or her registration with the entities described in this
6 paragraph, including, verifying his or her address on a
7 form as may be required by the Department of Justice.

8 (2) The following persons shall be required to register
9 pursuant to paragraph (1):

10 (A) Any person who, since July 1, 1944, has been or is
11 hereafter convicted in any court in this state or in any
12 federal or military court of a violation of subdivision (b)
13 of Section 207, kidnapping, as punishable pursuant to
14 subdivision (d) of Section 208, Section 220, except assault
15 to commit mayhem, Section 243.4, paragraph (1), (2),
16 (3), (4), or (6) of subdivision (a) of Section 261 or
17 paragraph (1) of subdivision (a) of Section 262 involving
18 the use of force or violence for which the person is
19 sentenced to the state prison, Section 264.1, 266, 266c,
20 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b),
21 (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10,
22 311.11, or 647.6, former Section 647a, subdivision (d) of
23 Section 647, subdivision 1 or 2 of Section 314, any offense
24 involving lewd and lascivious conduct under Section 272,
25 or any felony violation of Section 288.2; or any person who
26 since that date has been or is hereafter convicted of the
27 attempt to commit any of the above-mentioned offenses.

28 (B) Any person who, since July 1, 1944, has been or
29 hereafter is released, discharged, or paroled from a penal
30 institution where he or she was confined because of the
31 commission or attempted commission of one of the
32 offenses described in subparagraph (A).

33 (C) Any person who, since July 1, 1944, has been or
34 hereafter is determined to be a mentally disordered sex
35 offender under Article 1 (commencing with Section
36 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare
37 and Institutions Code.

38 (D) Any person who, since July 1, 1944, has been, or is
39 hereafter convicted in any other court, including any
40 federal or military court, of any offense which, if

1 committed or attempted in this state, would have been
2 punishable as one or more of the offenses described in
3 subparagraph (A).

4 (E) Any person ordered by any court to register
5 pursuant to this section for any offense not included
6 specifically in this section if the court finds at the time of
7 conviction that the person committed the offense as a
8 result of sexual compulsion or for purposes of sexual
9 gratification. The court shall state on the record the
10 reasons for its findings and the reasons for requiring
11 registration.

12 (b) Any person who, after August 1, 1950, is released,
13 discharged, or paroled from a jail, state or federal prison,
14 school, road camp, or other institution where he or she
15 was confined because of the commission or attempted
16 commission of one of the offenses specified in subdivision
17 (a) or is released from a state hospital to which he or she
18 was committed as a mentally disordered sex offender
19 under Article 1 (commencing with Section 6300) of
20 Chapter 2 of Part 2 of Division 6 of the Welfare and
21 Institutions Code, shall, prior to discharge, parole, or
22 release, be informed of his or her duty to register under
23 this section by the official in charge of the place of
24 confinement or hospital, and the official shall require the
25 person to read and sign any form that may be required by
26 the Department of Justice, stating that the duty of the
27 person to register under this section has been explained
28 to the person. The official in charge of the place of
29 confinement or hospital shall obtain the address where
30 the person expects to reside upon his or her discharge,
31 parole, or release and shall report the address to the
32 Department of Justice. The official in charge of the place
33 of confinement or hospital shall give one copy of the form
34 to the person and shall send one copy to the Department
35 of Justice and one copy to the appropriate law
36 enforcement agency or agencies having jurisdiction over
37 the place the person expects to reside upon discharge,
38 parole, or release. If the conviction which makes the
39 person subject to this section is a felony conviction, the
40 official in charge shall, not later than 45 days prior to the

1 scheduled release of the person, send one copy to the
2 appropriate law enforcement agency or agencies having
3 local jurisdiction where the person expects to reside upon
4 discharge, parole, or release; one copy to the prosecuting
5 agency which prosecuted the person; and one copy to the
6 Department of Justice. The official in charge of the place
7 of confinement shall retain one copy. All forms shall, if the
8 conviction which makes the person subject to this section
9 is a felony conviction, be transmitted within those times
10 in order to be received by the local law enforcement
11 agency or agencies and prosecuting agency 30 days prior
12 to the discharge, parole, or release of the person.

13 (c) Any person who, after August 1, 1950, is convicted
14 in this state of the commission or attempted commission
15 of any of the offenses specified in subdivision (a) and who
16 is released on probation or discharged upon payment of
17 a fine shall, prior to release or discharge, be informed of
18 the duty to register under this section by the court in
19 which the person has been convicted, and the court shall
20 require the person to read and sign any form that may be
21 required by the Department of Justice, stating that the
22 duty of the person to register under this section has been
23 explained to him or her. The court shall obtain the address
24 where the person expects to reside upon release or
25 discharge and shall report within three days the address
26 to the Department of Justice. The court shall give one
27 copy of the form to the person, send one copy to the
28 Department of Justice, and forward one copy to the
29 appropriate law enforcement agency or agencies having
30 local jurisdiction where the person expects to reside upon
31 his or her discharge, parole, or release.

32 (d) (1) Any person who, on or after January 1, 1986,
33 is discharged or paroled from the Department of the
34 Youth Authority to the custody of which he or she was
35 committed after having been adjudicated a ward of the
36 court pursuant to Section 602 of the Welfare and
37 Institutions Code because of the commission or
38 attempted commission of the offenses described in
39 paragraph (3) shall be subject to registration under the
40 procedures of this section.

1 (2) Any person who, on or after January 1, 1995, is
2 discharged or paroled from a facility in another state that
3 is equivalent to the Department of the Youth Authority,
4 to the custody of which he or she was committed because
5 of an offense which, if committed or attempted in this
6 state, would have been punishable as one or more of the
7 offenses described in paragraphs (3) and (4), shall be
8 subject to registration under the procedures of this
9 section.

10 (3) The following offenses shall apply for the purpose
11 of this subdivision:

12 (A) Assault with intent to commit rape, sodomy, oral
13 copulation, or any violation of Section 264.1, 288, or 289
14 under Section 220.

15 (B) Any offense defined in Section 288 or 288.5,
16 paragraph (1) of subdivision (b) of, or subdivision (c) or
17 (d) of, Section 286, paragraph (1) of subdivision (b) of,
18 or subdivision (c) or (d) of, Section 288a, paragraph (2)
19 of subdivision (a) of Section 261, subdivision (a) of
20 Section 289, subdivision (b) of Section 207, or kidnapping,
21 as punishable pursuant to subdivision (d) of Section 208.

22 (C) Any offense under Section 264.1 involving rape in
23 concert with force or fear of bodily injury or penetration
24 by any foreign object in concert with force or fear of
25 bodily injury.

26 (4) Any person who is discharged or paroled from the
27 Department of the Youth Authority to the custody of
28 which he or she was committed after having been
29 adjudicated a ward of the court pursuant to Section 602
30 of the Welfare and Institutions Code because of the
31 commission or attempted commission of the offense set
32 forth in Section 647.6, occurring on or after January 1,
33 1988, shall be subject to registration under the procedures
34 of this section.

35 (5) Prior to discharge or parole from the Department
36 of the Youth Authority, any person who is subject to
37 registration shall be informed of the duty to register
38 under the procedures set forth in this section.
39 Department of the Youth Authority officials shall

1 transmit the required forms and information to the
2 Department of Justice.

3 (6) All records specifically relating to the registration
4 in the custody of the Department of Justice, law
5 enforcement agencies, and other agencies or public
6 officials shall be destroyed when the person who is
7 required to register or has his or her records sealed under
8 the procedures set forth in Section 781 of the Welfare and
9 Institutions Code. This subdivision shall not be construed
10 as requiring the destruction of other criminal offender or
11 juvenile records relating to the case which are
12 maintained by the Department of Justice, law
13 enforcement agencies, the juvenile court, or other
14 agencies and public officials unless ordered by a court
15 under Section 781 of the Welfare and Institutions Code.

16 (e) (1) The registration shall consist of the following:

17 (A) A statement in writing signed by the person,
18 giving information as may be required by the
19 Department of Justice.

20 (B) The fingerprints and photograph of the person.

21 (C) The license plate number of any vehicle owned by
22 or registered in the name of the person.

23 (2) Within three days thereafter, the registering law
24 enforcement agency or agencies shall forward the
25 statement, fingerprints, photograph, and vehicle license
26 plate number, if any, to the Department of Justice.

27 (f) If any person who is required to register pursuant
28 to this section changes his or her residence address, the
29 person shall inform, in writing within 10 days, the law
30 enforcement agency or agencies with whom he or she last
31 registered of the new address. The law enforcement
32 agency or agencies shall, within three days after receipt
33 of this information, forward it to the Department of
34 Justice. The Department of Justice shall forward
35 appropriate registration data to the law enforcement
36 agency or agencies having local jurisdiction of the new
37 place of residence.

38 (g) (1) Any person who is required to register under
39 this section based on a misdemeanor conviction who
40 willfully violates this section is guilty of a misdemeanor

1 punishable by imprisonment in a county jail not
2 exceeding one year.

3 (2) Notwithstanding paragraph (1), any person who
4 has been convicted of assault with intent to commit rape,
5 oral copulation, or sodomy under Section 220, any
6 violation of Section 264.1 or 289 under Section 220, any
7 violation of Section 261, any offense defined in paragraph
8 (1) of subdivision (a) of Section 262 involving the use of
9 force or violence for which the person is sentenced to
10 state prison, any violation of Section 264.1, 286, 288, 288a,
11 288.5, or 289, subdivision (b) of Section 207, or
12 kidnapping, as punishable pursuant to subdivision (d) of
13 Section 208, and who is required to register under this
14 section who willfully violates this section is guilty of a
15 felony punishable by imprisonment in the state prison for
16 16 months, or two or three years.

17 (3) Any person required to register under this section
18 based on a felony conviction who willfully violates this
19 section or who has a prior conviction for the offense of
20 failing to register under this section and who
21 subsequently and willfully commits that offense is, upon
22 each subsequent conviction, guilty of a felony and shall be
23 punished by imprisonment in the state prison for 16
24 months, or two or three years.

25 A person punished pursuant to this paragraph or
26 paragraph (2) shall be sentenced to serve a term of not
27 less than 90 days nor more than one year in a county jail.
28 In no event does the court have the power to absolve a
29 person who willfully violates this section from the
30 obligation of spending at least 90 days of confinement in
31 a county jail and of completing probation of at least one
32 year.

33 If the person has been sentenced to a term of
34 imprisonment in the state prison, the penalty described
35 in this paragraph shall apply whether or not the person
36 has been released on parole or has been discharged from
37 parole.

38 (4) If, after discharge from parole, the person is
39 convicted of a felony as specified in this subdivision, he or
40 she shall be required to complete parole of at least one

1 year, in addition to any other punishment imposed under
2 this subdivision. A person convicted of a felony as
3 specified in this subdivision may be granted probation
4 only in the unusual case where the interests of justice
5 would best be served. When probation is granted under
6 this paragraph, the court shall specify on the record and
7 shall enter into the minutes the circumstances indicating
8 that the interests of justice would best be served by the
9 disposition.

10 (h) Whenever any person is released on parole or
11 probation and is required to register under this section
12 but fails to do so within the time prescribed, the parole
13 authority, the Youthful Offender Parole Board, or the
14 court, as the case may be, shall order the parole or
15 probation of the person revoked. For purposes of this
16 subdivision, “parole authority” has the same meaning as
17 described in Section 3000.

18 (i) Except as provided in Section 290.4, the statements,
19 photographs, and fingerprints required by this section
20 shall not be open to inspection by the public or by any
21 person other than a regularly employed peace officer or
22 other law enforcement officer.

23 (j) In any case in which a person who would be
24 required to register pursuant to this section for a felony
25 conviction is to be temporarily sent outside the institution
26 where he or she is confined on any assignment within a
27 city or county including firefighting, disaster control, or
28 of whatever nature the assignment may be, the local law
29 enforcement agency having jurisdiction over the place or
30 places where the assignment shall occur shall be notified
31 within a reasonable time prior to removal from the
32 institution. This provision shall not apply to any person
33 who is temporarily released under guard from the
34 institution where he or she is confined.

35 (k) As used in this section, “mentally disordered sex
36 offender” includes any person who has been determined
37 to be a sexual psychopath or a mentally disordered sex
38 offender under any provision which, on or before January
39 1, 1976, was contained in Division 6 (commencing with
40 Section 6000) of the Welfare and Institutions Code.

(l) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

~~(m) A law enforcement officer may disclose the identity and location of a person required to register under this section in order to preserve the public safety or to serve another legitimate law enforcement purpose.~~

(m) Police departments and sheriff's offices shall release information necessary to protect the public concerning persons required to register pursuant to this section. This information may include the identity and location of those persons. However, no law enforcement agency shall release the identity of any victim of any person required to register pursuant to this section.

SEC. 2. *Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.*

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize law enforcement officers to disclose the identities and locations of sex offenders to

1 preserve the public safety, it is necessary for this act to
2 take effect immediately.

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